

INTERVENTION

Policy Regulations for Day Care in New York City (Article 47)

New York City Department of Health and Mental Hygiene (NYCDOHMH)
Board of Health
New York City, NY



DISSEMINATION CATEGORY

Policy Regulations for Day Care in New York City is an emerging intervention based on its use of evidence-based strategies. Developed in practice, it shows promise but evidence in support of effectiveness is not yet available.

OVERVIEW

Intent of the policy: The intent of the NYC health code revision and subsequent amendment to Article 47 (Child Care Services) of the New York City Health Code was to improve the physical activity and nutrition practices in NYC group day care facilities. This amendment included specific guidelines for outdoor play and physical activity, limits on television viewing, and requirements for food and food areas.

Intended Population: children from birth to age 5 in group day care centers

Setting: Child care

Background: The New York City Department of Health and Mental Hygiene (NYCDOHMH) is mandated by law to protect and promote the health of all New Yorkers. The Bureau of Child Care, in the Department's Division of Environmental Health, enforces Article 47 of the Health Code. Article 47 regulates public and private group day care services operating within New York City.

The Bureau of Chronic Disease Prevention and Control (BCDPC) reviewed the NYC health code in 2004; the review identified gaps in nutrition and physical activity in day care settings. As a result of these findings, the DOHMH requested that the Board of Health amend or add provisions relating to the operation of day care services regulated by Article 47 of the Health Code. These provisions included requirements to:

- establish minimum requirements on indoor and outdoor play (amendment),
- provide structured and guided physical activity (addition),
- establish limits on sedentary TV viewing (addition), and
- institute stricter nutritional standards (amendment).

In order to assess the day care practices prior to the implementation of this new policy, baseline data was collected in 40 NYC licensed group day care centers. Preliminary results identified some areas of concern including the use of white bread and whole milk, insufficient amounts of fresh fruits and vegetables¹. Baseline physical activity in child care settings was assessed more generally through published literature analyzing national child care licensing regulations. The

¹ Erinoshio T, Dixon BL. *Involvement of nutrition and dietetic students in a community-based research project*. Topics in Clinical Nutrition 2007;22(4)367-377.

lack of structured physical activity requirements was an area of concern nationally², and thus became an area that the NYCDOHMH chose to address in the amendment of Article 47.

Length of time in the field: The amendment to Article 47 of the New York City Health Code was adopted on June 15, 2006 and went into effect on January 1, 2007.

HEALTH EQUITY CONSIDERATIONS

New York City amended its Child Care Services regulations, part of the City's Health Code, to improve the physical activity and nutrition practices in NYC group day care facilities. This amendment included specific guidelines for outdoor play and physical activity, limits on television viewing, and requirements for food and food areas. As a public policy, it affects children from birth to age five attending group day care centers. The NYC day care policy reaches approximately 116,000 children in 2000 group day care center sites.

IMPLEMENTATION

Policy Components

Physical Activity and Limits on Television Viewing requirements:

- Children 12 months and older attending full day program must participate in 60 minutes of physical activity per day
- Children 3 years and older must participate in at least 30 minutes of structured and guided physical activity to meet the 60 minutes of total physical activity
- Television, video, and visual recordings are not permitted for children under 2 years of age
- Television, video, and visual recordings are limited to 60 minutes per day of educational programming for children 2 years or older

Food and Food Areas requirements:

- Prohibit providing beverages with added sweeteners to children
- Require water to be accessible and available for children to drink throughout the day
- Limit quantity and provision of juice to one 6-oz serving per day
- Limit fat content of milk to children age 2 and older to 1% or lower
- Require distribution of nutrition guidelines to parents for food brought into day care facilities from other sources

Informing Day Care Centers

Before the new regulations were enforced, child care directors were informed of the changes in three ways:

1. The Bureau of Child Care held one public meeting in each borough specifically for center directors to inform them about the amendments to Article 47. Senior staff from the Bureau led these sessions and answered questions from day care center staff about changes to the regulations.
2. Mailings were sent from the Bureaus of Child Care and Chronic Disease Prevention and Control to day care directors to inform them of new provisions included in Article 47 for

² Kaphingst KM, Story M. *Child care as an untapped setting for obesity prevention: state child care licensing regulations related to nutrition, physical activity, and media use for preschool-aged children in the United States*. Prev Chronic Dis 2009;6(1).

both Nutrition services and Physical Activity (see [Intervention Materials](#) for copies of Nutrition and Physical Activity mailings).

- a. The *Nutrition mailing* includes guidelines for meals, snacks, and beverages; recommendations for foods offered during special occasions; recommendations for infant feeding; daily calorie levels for children; and suggested portion sizes for meals and snacks.
 - b. The *Physical Activity mailing* includes overall physical activity guidelines for children ages 3 to 5 and structured physical activity guidelines for children ages 3 to 5.
3. Bureau of Child Care staff who regularly visit day care centers (including Early Childhood Educational Consultants (ECECs) and sanitarians) were informed of the changes to Article 47 and were asked to inform day care directors about them when visiting centers. In addition, ECECs and sanitarians encouraged day care centers to participate in trainings offered by the Bureau of Chronic Disease Prevention & Control that would support compliance of the regulations (details below).

Programs that Support Policy Implementation

In order to support compliance, the Bureau of Chronic Disease Prevention and Control offers technical assistance to day care centers through the *Move-To-Improve Early Childhood* and the *Eat Well, Play Hard* Programs.

Eat Well Play Hard – Nutrition component

The [Eat Well Play Hard](#) nutrition program works with day care centers in neighborhoods with the highest rates of childhood obesity. It uses an innovative, hands-on curriculum to educate children, parents and center staff on healthy eating habits. The program reinforces the nutrition components of Article 47. The *Eat Well Play Hard* program is funded by New York State Department of Health through the USDA Supplemental Nutrition Assistance Program Education (SNAP-Ed). SNAP-Ed support includes the development and dissemination of nutrition education messages. As of August 2010, approximately 302 day care centers have been trained in *Eat Well Play Hard*.

Move-To-Improve Early Childhood – Physical Activity component

In order to support compliance with the physical activity component of the policy, the DOHMH provides a free training for day care staff on a structured physical activity curriculum called *Move-To-Improve Early Childhood* (See [Intervention Materials](#)). In this workshop, educators learn how to lead children in guided physical activity. Play equipment is also provided to trained staff. Since its inception, the program model has changed in two important ways. First, DOHMH initially used the *SPARK!* Early Childhood curriculum to train staff. This was replaced with the DOHMH-designed curriculum called *Move-To-Improve*. Second, just after regulations were passed, additional on-site technical assistance was provided to centers in the neighborhoods with the highest rates of childhood obesity. This part of the program ended because all sites within those neighborhoods had been visited on several occasions; however, the DOHMH continues to provide ongoing training to all day care centers. Approximately 15,000 day care staff and 80% of day care centers have been trained and equipped by this program.

Notably, compliance with Article 47 does not require participation in either the *Move-To-Improve* or the *Eat Well Play Hard* programs; however, both programs support centers in their efforts to comply with Article 47.

Enforcement of the Policy

Enforcement of the regulations set forth by Article 47 is conducted through annual inspections by the ECECs and sanitarians, as part of the NYC Bureau of Child Care licensing regulations.

During these inspections, ECECs look for compliance with the programmatic regulations (e.g., age-appropriate activities/games), while sanitarians focus on compliance with safety standards (e.g., playground safety, food safety). Both ECECs and sanitarians have the authority to enforce all policies. In order to determine compliance with the physical activity requirements, ECECs examine the day care center's daily schedules to see if adequate time is allotted for movement. To assess compliance with nutrition regulations, sanitarians review menus and examine kitchens; however, enforcement of these regulations is challenging due to the lack of frequency with which inspections occur and the brief amount of time allotted for them. For example, sanitarians must assess compliance with all of Article 47 but cannot observe a full day in each classroom to observe whether center staff are providing not more than the daily limit of six ounces of juice per child.

Keys to Success:

- In New York City, the Board of Health regulates group day care centers; therefore, the DOHMH did not have to champion legislation that would normally have to go through elected officials to get passed. Instead, the DOHMH advocated for the changes via the Board of Health, a technical regulatory body that was already aware of the importance of addressing childhood obesity.
- Enforcement of these policies is possible because the Bureau of Child Care had an existing protocol to visit and assess centers on an annual basis.
- Centers located in areas with higher rates of health disparities are supported in their efforts to implement these policies by additional on-site training and technical assistance provided by the DOHMH.
- At the time these regulations were proposed, there were champions for its amendments at multiple levels within the NYCDOHMH, including former Health Commissioner Frieden, and externally, including the City Council, Mayor Bloomberg, the public, and stakeholders. With the exception of one, all public comments provided during the mandatory public comment period³ were in support of the policy.
- The Department had support from day care directors who believe that this policy is necessary to promote health in their centers.
- The NYC food procurement standards require that all food purchased and meals served by ALL New York City agencies (including day cares funded by the City) are intended to "improve the health of all New Yorkers" served by these agencies. These standards restrict the inclusion of trans fats in any foods served; restrict the purchase of foods prepared by deep frying; and include sodium, calorie, fiber and fat guidelines depending on the food category. The fact that these standards exist establishes a cultural norm of promoting health among New York City agencies and in the city as a whole, thus increasing support for chronic disease and obesity prevention efforts.
- The New York City Council recognized the importance of addressing childhood obesity and supported the legislation by providing funding for technical assistance. Without its support, the DOHMH would not have been able to provide training to demonstrate how to implement the physical activity regulations within day care centers.

Barriers to Implementation:

- It is challenging to enforce some of the policies as written. For example, the daily limit of six ounces of 100% juice is difficult for centers to implement if they serve meals family-style.

³ A public comment period in the form of public hearings was required following the publishing of the notice of intent to repeal and reenact Article 47 (Child Care Services) of the New York City Health Code in the City Record. Two public hearings were held.

- There is limited space for both indoor and outdoor play in NYC day cares, making compliance with physical activity requirements difficult.
- There is some resistance among parents to comply with the nutrition regulations when sending foods to the day care for regular meals or celebrations.
- Although there are few costs to day care centers to comply with the regulation, there are indirect costs to pay for staff to attend technical assistance trainings. While the actual training is free, day care centers incur costs to pay for substitute teachers to provide services to their clients during the trainings.

RESOURCES REQUIRED

The policy does not require funding; however, staff time is needed to support policy adherence and enforcement. The Bureau of Child Care did not receive any additional funding to enforce the new regulation.

The *Move-to-Improve* program receives funding from the New York City Council; this amount changes on a yearly basis (FY2007-08 = \$1.4 million). The *Eat Well Play Hard* nutrition program receives funding from the New York State Department of Health through the USDA Supplemental Nutrition Assistance Program (SNAP-Ed).

UNDERLYING THEORY/ EVIDENCE

Policy Regulations for Day Care in New York City is an emerging intervention and evidence in support of effectiveness is not yet available.

Strategies Used⁴

There is evidence that **increasing access to and number of places for physical activity** and **decreasing screen time and other sedentary behaviors** are effective strategies to increase physical activity and improving other physical activity-related outcomes. Reviews of the evidence suggest that combining this strategy with informational strategies, such as promotion or education, and/or social support strategies may increase its effectiveness. The NYC day care policy includes the following provisions aimed at increasing access to places for physical activity and decreasing screen time:

- Sufficient play equipment shall be made available in the indoor and outdoor play areas that are appropriate to the stage of development of the children.
- Play equipment shall enable all children to engage in structured and guided physical activities.
- Television, video, and visual recordings are limited to 60 minutes per day of educational programming for children 2 years or older
- Television, video, and visual recordings are not permitted for children under 2 years of age

There is evidence that **changing access and availability to favor healthy foods and beverages** is effective in increasing healthy eating in a variety of settings and with diverse populations. Increasing the availability of healthy foods encompasses those intervention methods aimed at increasing the number and/or types of healthy food items wherever food is available. Such strategies include, among others, developing and implementing policies on the

⁴ A full description of the intervention strategies used can be found on the Center TRT website with references to the sources of evidence to support the strategies.

availability of healthy food items. The NYC day care policy includes the following policy provisions aimed at increasing the availability of healthy foods in group day care settings:

- Beverages with added sweeteners shall not be provided to children.
- No more than 6 ounces of 100% juice shall be provided to children over eight months of age per day.
- Children ages two and older shall be served 1% or less milk fat.
- Water shall be made available and easily accessible to children throughout the day.

POTENTIAL PUBLIC HEALTH IMPACT

The findings from the Early Assessment⁵ suggest that this policy has potential for impact in day care settings. An extension of this project is underway to evaluate the policy's impact on children's diets and levels of physical activity and to determine the factors affecting implementation of the regulations.

Reach: The NYC day care policy reached approximately 116,000 children in group day care center sites.

Effectiveness: The evidence of effectiveness is emerging for policies in this category. A full evaluation examining the effects of the amended day care policy on nutrition and physical activity practices is in progress. The findings from the evaluation will be key to assessing the extent to which the policy components were implemented across day care centers.

Adoption and Implementation: The policy has been implemented in 2,000 NYC day care sites since it went into effect on January 1, 2007. All day care centers received notification of the policy change and were provided written materials to assist with adherence. Approximately 80 percent of day care centers were trained in *SPARK!*, the physical activity program that supports policy adherence. Trainings on *Eat Well Play Hard*, the nutrition program that supports policy adherence began prior to the end of 2007. Acceptability of the policy by the day care directors is high. Implementation is monitored by DOHMH Bureau of Child Care staff.

Maintenance: The day care policy has been in place for three years. Given that the policy is mandatory and has political support, it likely that this public policy will be maintained.

INTERVENTION MATERIALS

The following intervention materials can be downloaded from the [Center TRT website](#):

Policy Enactment

- *Notice of Adoption of the Repeal and Reenactment of Article 47 of the New York City Health*

⁵ *Regulations for Day care in New York City* participated in the Early Assessment of Programs and Policies to Prevent Childhood Obesity project, a collaborative effort of the Robert Wood Johnson Foundation, CDC Division of Nutrition, Physical Activity and Obesity, CDC Division of Adolescent and School Health, and Macro International. The findings in this section are based on the opinion of the site visitors and derived from the *Regulations for Day care in New York City* Summary Report (November 2007).

Code – Policy enacted to regulate the public and private group day care services operating within New York City (Nutrition regulations – Section 47.61, p. 44; Physical Activity and Television Viewing limits – Section 47.71, p. 50)

- *Notice of New Regulations on Physical Activity for Group Child Care Services (Physical Activity Mailing)* – Summary of new provisions regarding physical activity in child care services permitted by the NYCDOHMH sent as a mailing to inform day care directors of policy changes and includes:
 - Overall physical activity guidelines for children ages 3 to 5; and
 - Structured physical activity guidelines for children ages 3 to 5.
- *Notice of New Regulations on Nutrition for Group Child Care Services (Nutrition Mailing)* – Summary of new provisions regarding nutrition services in child care services permitted by the NYCDOHMH sent as a mailing to inform day care directors of policy changes and includes:
 - Guidelines for meals, snacks, and beverages;
 - Recommendations for foods offered during special occasions;
 - Recommendations for infant feeding;
 - Daily calorie levels for children; and
 - Suggested portion sizes for meals and snacks.
- *City Agency Food Standards: Requirements and Recommendations* – Standards for foods purchased and meals served by NYC agencies, with the goal of improving the health of all New Yorkers
- *Move-to-Improve Early Childhood* program materials – Adapted from the *SPARK!* program, NYCDOHMH developed its own curriculum that includes tailored activities appropriate for the NYC day care centers. This program is used to reinforce the physical activity regulations in Article 47 and began in 2010. Trained centers receive manuals with physical activity lessons as well as portable play equipment (including spot markers, scarves and bean bags). These materials are available upon request by contacting intervention developers at ldunn@health.nyc.gov.

ADDITIONAL INFORMATION

Website:

NYC Bureau of Child Care www.nyc.gov/html/doh/html/dc/dc.shtml

Training/Technical Assistance: Program contact(s) are available to provide technical assistance to those interested in implementing/adapting child care regulations for group day care services and are listed below.

Publications:

Erinosho T, Dixon BL. *Involvement of nutrition and dietetic students in a community-based research project*. Topics in Clinical Nutrition 2007;22(4)367-377.

Program Contacts:

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